REMARKS

Claims 1-39 are pending in the application. The status of the application is as follows:

Claims	35 U.S.C. Sec.	References / Notes
1-39	§103(a) Obviousness	• Movalli, et al. (U.S. Publication No. 2005/0004876 A1); • Walker, et al. (U.S. Patent Publication No. 2003/0149632); and • Teper, et al. (U.S. . Patent No. 5,815,665).

5   Applicant thanks the Examiner for withdrawing the finality of the prior Office Action dated May 18, 2007.

Applicant's use of reference characters below is for illustrative purposes only and should not be construed as limiting the invention unless expressly indicated.

10   **35 U.S.C. §103(a), CLAIMS 1-39 OBVIOUSNESS OVER MOVALLI IN VIEW OF WALKER AND TEPER**

1. The addition of Teper to the combination does not provide an obviating combination since Teper fails to teach any aspect related to the transaction code.

In the OA, on pp. 2 and 3, the Examiner rejected independent claims 1

15   and 18 as being obvious over the combination of Movalli, Walker, and Teper. Previously, the Examiner had rejected claims 1 and 18 over the combination of Movalli and Walker alone. Based on the Applicant's arguments presented in the previously filed Appeal Brief, the obviousness rejection was withdrawn, and a new rejection was given that included the addition of the Teper reference.

On p. 3, the Examiner stated, with regard to the newly added Teper

reference:

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> Movalli fails to teach the claimed feature of receiving
> the transaction code by the order processing system
> associated with the vendor; identifying the user based
> upon the contents of the transaction code.

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> Teper teaches receiving the transaction code by the
> order processing system associated with the vendor;
> identifying the user based upon the contents of the
> transaction code. (around column 8, line 55, data
> stored by the Online broker site includes at least
> "unique ID and billing history, it is obvious that items in
> a database would share a common key, customer ID
> in the present case).

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> Therefore it would have been obvious to one of
> ordinary skill in the art at the time the invention was
> made to modify Movalli et al's disclosure to include
> Teper teaching of authentication process because this
> would allow an anonymous user to be securely
> authenticated without compromising the users identity;
> furthermore the combination of these elements does
> not alter their respective functions, and the
> combination would have yielded predictable results to
> one of ordinary skill in the art at the time of the
> invention.

Applicant respectfully disagrees with this characterization of the teaching

of Teper. Teper states, in the section cited by the Examiner, at 8:54–62:

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> The Online Broker site 60 includes one or more
> databases 64 for storing various account information
> with respect to the users and Service Providers. This
> information preferably includes the passwords, unique
> IDs, access rights and bills (charges) of the users, and
> includes the passwords that have been assigned to
> the Service Providers. As noted above, the Broker site
> 60 may also store and provide access to a directory of
> the services available from the Service Providers, to
> help users locate such services.

First, this section does not deal with transaction codes, but rather with

information that is stored in a database of an online broker. The information that

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is stored in the database and cited by the Examiner are elements that would be required in any form of a broker transaction, and thus would not be pertinent to the transmission of a transaction code in general, and particularly not relevant to the use of the transaction code to identify the user.

5   Teper deals with a multi-step process that adds a complete layer of contact, authentication, token exchange, and user authentication – and at no time does it even mention a single issue related to conducting a transaction. It mentions "SP" or "sites" where vendors offer their products and services, and their mechanism for performing this function is a 3rd party secure transaction
10   processing system that, once having established a trust relationship with a customer, provides the billing functionality "out of network" – that is, on a system separate from the Internet system where the user's "site" offers the products and services. Teper creates a secondary mechanism for the payment components when a user has visited a site that participates with them. It requires pre-
15   authorization and authentication with the exchange of a token that verifies the authorization. It does have payment processing capability, but it's a conventional payment after the fact.

Lacking any teaching with regard to the handling of a transaction code, one of ordinary skill in the art would not turn to the teaching of Teper in order to
20   find the elements that are missing from Movalli and Walker.

The Examiner notes that it would be obvious to combine Teper with Movalli because this would allow an anonymous user to be securely authenticated without compromising the user's identity. However, this reasoning

is at odds with the focus of the invention. As noted in paragraph [0001] of the specification, the invention relates to a system for convenient rapid entry of repeat orders for goods or services via cellular phone. Since Teper appears to utilize a fairly laborious and conventional mechanism for logging the user on, it

5   would not address "convenient rapid entry" related to a transaction involving repeat orders for goods and services that is advantageously provided by identifying the user based upon the contents of the transaction code. To the contrary, such a laborious and conventional mechanism is at odds not only with the language of the claim, but for the purpose of the invention itself. The secure

10   authentication of the user is dealt with in a different manner by the present invention.

Thus, lacking any discussion with respect to the transaction code, Teper fails to disclose the elements related to the transaction code that are missing from the teaching of Movalli and Walker in order to arrive at what is claimed in

15   independent claims 1, 14, and 18. MPEP §2143.03 requires, in order to establish a *prima facie* case of obviousness, that all claim limitations be considered, citing to *In re Wilson*, "All words in a claim must be considered in judging the patentability of that claim against the prior art." In this instance, Applicant respectfully contends that the "transaction code" has been ignored and thus has

20   not been properly considered with regard to the teaching of Teper in combination with Movalli and Walker.

   2. Movalli fails to teach or suggest executing a commercial transaction.

In the OA, on p. 2, the Examiner indicated that Movalli teaches, among other things, "executing the identified commercial transaction (see figs. 4, 5, paragraphs 0046–0051".

Contrary to the Examiner's position, the cited figures and paragraphs of

5   Movalli do not deal with executing an identified commercial transaction.

Movalli lacks a teaching of this element of the present invention because it deals with a different problem—the storing and verification of an already-executed transaction (or at least evidence of an already-executed transaction). In Movalli, the information 210 related to an endorsed transaction (e.g., a credit

10   card transaction receipt [0046]) is combined with a unique human identifier 220. A unique code 240 is generated from this, but the purpose of this code is not for execution of the transaction, as required by the claims, but rather for storage and possible subsequent verification of integrity. Movalli does not concern itself with the execution of the transaction itself.

15   *3. Movalli fails to teach or suggest the element of identifying a commercial transaction.*

In the OA, on p. 2, the Examiner indicated that Movalli teaches, among other things, "identifying a commercial transaction associated with the transaction code". Applicant respectfully disagrees with this characterization of the teaching

20   of Movalli.

Movalli does teach a unique code 240 comprises transaction data 210, but has failed to show how a commercial transaction is identified with respect to it.

Furthermore, tying the claim 1 language with the subsequent step of executing the identified commercial transaction, it is clear that identifying the commercial transaction in the present invention must be one that is not yet executed. However, the transaction data in Movalli includes a transaction date

5   and time [0046], meaning that Movalli's transaction has already been executed.

Therefore, the Examiner has failed to indicate how Movalli teaches identifying the commercial transaction associated with the transaction code.

4. Movalli fails to teach or suggest the element of transmitting electronically a transaction code from the customer to an electronic order

10 *processing system associated with the vendor.*

In the OA, on p. 2, the Examiner indicated that Movalli teaches, among other things, "transmitting electronically a transaction code from the customer to an electronic order processing system associated with the vendor". Applicant respectfully disagrees with this characterization of the teaching of Movalli.

15   Movalli's paragraph [0046] identifies that the workstation 110 combines transaction data 210 and other information related to a secure transaction into a single whole representation of a secure endorsed transaction 320 [0050]. This secure endorsed transaction 320 can then be transmitted to a credit card processor where the data may be stored [0051]. However, this is storage for

20 archival purposes and takes place _after_ the transaction has been executed. The credit card company cannot be construed as an electronic order processing system associated with the vendor, as is required by the first element of claim 1,

since it does not process orders—it is the merchant's system that must process

an order.

Therefore, Movalli fails to teach or suggest the element of transmitting

electronically a transaction code from the customer to an electronic order

5   processing system associated with the vendor.

For these reasons, Applicant respectfully asserts that the limitations of

claims 1 and 18 are not obvious over the combination of Movalli, Walker, and

Teper, on the basis of the Examiner's statements on pp. 2–3 of the OA, for the

reasons discussed above. The respective claims that depend therefrom are not

10   obvious by virtue of their dependence from independent claims 1 and 18.

In the OA, on p. 6, the Examiner indicated:

> Claims 14–39 are in parallel with claims 1–13 and are
> rejected for at least the same reasons, since claims
> 14–39 disclose the same invention as claims 1–13 the
15   > examiner submits that a restriction is not proper at this
> time.

Therefore, Applicant applies the above reasons in asserting that

independent claims 14 and 18 and all remaining dependent claims are not

obvious over this combination of references.

20   For these reasons, the Applicant asserts that the claim language clearly

distinguishes over the prior art, and respectfully requests that the Examiner

withdraw the §103(a) rejection from the present application.

CONCLUSION

Inasmuch as each of the objections have been overcome by the above

25   arguments, and all of the Examiner's suggestions and requirements have been

satisfied, it is respectfully requested that the present application be reconsidered,

the rejections be withdrawn and that a timely Notice of Allowance be issued in

this case.

                                        Respectfully submitted,

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